IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 807 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE Z.K.SAIYED

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Appellant(s)
Versus
SATYANARAYAN SHARMA - Opponent(s)

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Appearance :

MR UR BHATT Ld. APP for Appellant(s) : 1,
NOTICE SERVED for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE Z.K.SAIYED

Date : 26/11/2007

ORAL JUDGMENT

1. This appeal has been preferred by the State against the judgment and order dated 28.2.1995 passed by the learned Metropolitan Magistrate, Court No. 4,

Ahmedabad in Criminal Case No. 1699/1990 acquitting the present respondent from the charges levelled against him.

2. The present respondent- Satyanarayan Sharma, who is the Manager of Orient Fabrics Pvt. Ltd., GIDC, Vatva, Ahmedabad was charged and tried by the learned Metropolitan Magistrate, Ahmedabad in Criminal Case No. 1699/1990 for the breach of Rule 61(2) of the Gujarat Factory Rules, 1963, which is punishable under section 92 of the amended Factory Act, 1987. At the end of the trial, by the judgment and order dated 28.2.1995 the learned Magistrate has acquitted the present respondent from the offence for which he was charged.

3. Originally, it is the say of the original complainant Factory Inspector Mr. HJ Patel, Ahmedabad that he has visited Orient Fabrics Pvt. Ltd., 42 GIDC Indutrial Estate, Vatva, Ahmedabad on 29.3.1990, and at that time, respondent – Satyanarayan Sharma was the manager of the said factory. The Factory Inspector Mr. HJ Patel has filed one complaint that on 28.3.1990 at about 8.00 O'clock workers of the said factory Shri Parmeshwar Ramsevak, Shivdarshan and Dhaniram Yadav met with some accident and due to that accident, Mr Patel has visited that factory and during the inquiry, it has come to his knowledge that factory was working with the Synthetic Cotton Process work with the printing machine, dyeing range machine, Jet dyeing machine etc. and on

28.3.1990 Shri Parmeshwar Ramsevak was working on sixth cylinder dying range machine and at about 8.00 O'clock there was a blast in cylinder of the said machine and due to this blast, some workers have received injuries. Shri Parmeshwar Ramsevak, worker, had received fatal injury and two other workers who have also received injury were also shifted to LG Hospital, Maninagar, Ahmedabad. During that visit, Factory Inspector Mr Patel inquired from the Factory Engineer Shri Jayantibhai and he explained that during the use of said machine, the pressure of the steam in the boiler is maintained and created upto 90 P.S.I. to 100 P.S.I. always created and dyeing range cylinder pressure should be around 40 P.S.I. to 50 P.S.I. and pressure of steam in the dyeing range cylinder is more than heavy steam pressure and it is the duty of the factory owner/responsible person to use reducing valve etc. and to take necessary steps to balance such pressure and to take care and caution. During the inquiry by Mr. Patel, Factory Inspector, it has come to his knowledge from the interrogation of fitter Dharamsinh Meraji who told him that reducing valve was not in a working condition and so it was opened on 22.3.1990 for repairing but at the time of accident it was not installed and due to heavy pressure, said accident took place. Such negligent act on the part of the said factory owner and responsible person amounts to a breach of section 61(2) of the Gujarat Factory Rules. So under the provisions of Section 92 of the Factory Act Mr. Patel has filed one complaint and

process was issued, copies were given to the original accused – present respondent and plea was recorded at Ex. 4. Prosecution had also examined witnesses. PW-1 Harshvardhan Jethabhai is examined at Ex. 5 and Form No. 21 is produced vide Ex. 6 and letters which were sent by respondent to the Factory Inspector were also produced vide Exh. 7,8 & 9. Expert's report with regard to the checking of dyeing range in Form No. 11 was produced vide ex. 10 and statement of fitter Dharamsinh Meraji was produced at Ex. 11. Visiting remarks of Mr. Patel is produced at Ex. 12 and vide Ex. 13 the complaint was produced. Thereafter, the statement of the respondent – original accused was recorded by the trial court under the provisions of Sec. 313 of Code of Criminal Procedure. In the said matter, the prosecution has also produced report of FSL at Ex. 15 and written arguments of the prosecution was also produced at ex. 16. At the conclusion of the rial, the learned Magistrate vide judgment and order dated 28.2.1995 acquitted the accused – present respondent which is under challenge in this appeal by State under sec. 378 of Code of Criminal Procedure before this Court.

4. I have heard Mr. UR Bhatt learned APP appearing for the appellant-State at length and perused the oral evidence as well as documentary evidence on the record of the case.

5. Mr. UR Bhatt learned APP has contended that in this matter, the trial court has committed an error

and the report of the FSL is not properly considered by the trial court. It is also contended by Mr. Bhatt that it was a sole negligence of the respondent. Mr. Bhatt has read the relevant provisions of the Factories Act, rules framed thereunder and the judgment of the trial court under challenge and argued that the judgment rendered by the trial court is required to be quashed and set aside. I have gone through the exhibited documents produced in the matter before the trial court. On perusal of the oral evidence which was produced before the trial court, it appears that it is not true that at the time of accident reducing valve was not installed. It is observed by the trial court that it is on record that reducing valve was there and due to the pressure there was a blast and due to that blast fatal injury was received by one worker and minor injuries were received by two other workers and they were shifted to the hospital for proper treatment.

6. Looking to the provisions of the Factories Act and the Rules, there are guidelines issued to the owner of the factory as well as Engineers etc. to maintain proper security and to take some care and caution so that no such accidents can take place in such type of factory. It is true that in this matter, due to pressure, there was a blast and fatal injury was received by one worker and he passed away. Mr. Bhatt learned APP who has tried to convince this Court and tried to establish that the order of the trial court is not proper and legal, but Mr. Bhatt

has no answers to the queries raised by the Court. It is settled legal proposition laid down by the Hon'ble Supreme Court that if the Appellate Court is convinced with the reasons assigned by the trial court acquitting the accused, it is not necessary for the Appellate Court to reproduce each and every reasons or re-write the judgment afresh. I have gone through the judgment and reasons assigned by the trial court acquitting the accused and there is no error either of facts or of law committed by the trial court while acquitting the accused. I am in full agreement with the view taken and reasons assigned by the learned Trial Judge for acquitting the accused. Hence, no interference is required at the appellate stage.

7. For the reasons aforesaid, present Criminal Appeal is hereby dismissed. The impugned judgment and order dated 28.2.1995 passed by the learned Metropolitan Magistrate, Court No. 4, Ahmedabad in Criminal Case No. 1699/1990 acquitting the accused – present respondent is hereby confirmed. The bail bonds of the accused- present respondent stands discharged.

(Z.K. SAIYED, J.)

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